

ASSEMBLY BILL

No. 2724

Introduced by Assembly Member Bradford

February 21, 2014

An act to amend Section 1214.1 of the Penal Code, and to amend Section 40509 of the Vehicle Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2724, as introduced, Bradford. Failure to appear in court: fines.

Existing law authorizes the court, in addition to any other penalty in an infraction, misdemeanor, or felony case, to impose a civil assessment of up to \$300 against any defendant who fails, after notice and without good cause, to appear in court for any proceeding authorized by law, or who fails to pay all or any portion of a fine ordered by the court or to pay an installment of bail, as specified. Existing law provides that the assessment shall not become effective until at least 10 calendar days after the court mails a warning notice to the defendant, and requires the court, if the defendant appears within the time specified in the notice and shows good cause for the failure to appear or for the failure to pay a fine or installment of bail, to vacate the assessment.

The bill would provide that ability to post bail or to pay the fine or civil assessment is not a prerequisite to filing a request that the court vacate the assessment. The bill would also state that the imposition or collection of a civil assessment does not preclude a defendant from scheduling a court hearing on the underlying charge.

Existing law authorizes a court to give notice to the Department of Motor Vehicles if any person has willfully failed to pay a lawfully imposed fine, or bail in installments, within the time authorized by the court, except as specified. If the fine is fully paid, the court or court is

required to issue and file with the department a certificate showing that the fine has been paid.

This bill would require the court clerk, if the fine is fully paid, or an agreement is signed to pay the fine, fee, or bail in installments, or an agreement is signed to perform community service, to issue and file a certificate with the department that the fine has been paid or satisfied, or an agreement has been signed, and request that the license hold be lifted. The bill would prohibit the court from requiring the payment of bail, the fine, or a civil assessment before a person may request the court to vacate a civil assessment.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1214.1 of the Penal Code is amended to
2 read:

3 1214.1. (a) In addition to any other penalty in infraction,
4 misdemeanor, or felony cases, the court may impose a civil
5 assessment of up to three hundred dollars (\$300) against ~~any~~ a
6 defendant who fails, after notice and without good cause, to appear
7 in court for ~~any~~ a proceeding authorized by law or who fails to
8 pay all or any portion of a fine ordered by the court or to pay an
9 installment of bail as agreed to under Section 40510.5 of the
10 Vehicle Code. This assessment shall be deposited in the Trial Court
11 Trust Fund, as provided in Section 68085.1 of the Government
12 Code.

13 (b) (1) The assessment *imposed pursuant to subdivision (a)*
14 *shall not become effective until at least 10 calendar days after the*
15 *court mails a warning notice to the defendant by first-class mail*
16 *to the address shown on the notice to appear or to the defendant's*
17 *last known address. If the defendant appears within the time*
18 *specified in the notice and shows good cause for the failure to*
19 *appear or for the failure to pay a fine or installment of bail, the*
20 *court shall vacate the assessment.*

21 (2) *Ability to post bail or to pay the civil assessment shall not*
22 *be a prerequisite to filing a request that the court vacate the*
23 *assessment. Imposition or collection of a civil assessment shall*
24 *not preclude a defendant from scheduling a court hearing on the*
25 *underlying charge.*

1 (c) If a civil assessment is imposed ~~under this section~~ pursuant
2 to subdivision (a), no bench warrant or warrant of arrest shall be
3 issued with respect to the failure to appear at the proceeding for
4 which the assessment is imposed or the failure to pay the fine or
5 installment of bail. An outstanding, unserved bench warrant or
6 warrant of arrest for a failure to appear or for a failure to pay a
7 fine or installment of bail shall be recalled prior to the subsequent
8 imposition of a civil assessment.

9 (d) The assessment imposed ~~under~~ pursuant to subdivision (a)
10 shall be subject to the due process requirements governing defense
11 and collection of civil money judgments generally.

12 (e) Each court and county shall maintain the collection program
13 that was in effect on July 1, 2005, unless otherwise agreed to by
14 the court and county. If a court and a county do not agree on a plan
15 for the collection of civil assessments imposed pursuant to this
16 section, or any other collections under Section 1463.010, after the
17 implementation of Sections 68085.6 and 68085.7 of the
18 Government Code, the court or the county may request arbitration
19 by a third party mutually agreed upon by the Administrative
20 Director of the Courts and the California State Association of
21 Counties.

22 SEC. 2. Section 40509 of the Vehicle Code is amended to read:

23 40509. (a) Except as required under subdivision (c) of Section
24 40509.5, if ~~any~~ a person has violated a written promise to appear
25 or a lawfully granted continuance of his or her promise to appear
26 in court or before the person authorized to receive a deposit of
27 bail, or violated an order to appear in court, including, but not
28 limited to, a written notice to appear issued in accordance with
29 Section 40518, the magistrate or clerk of the court may give notice
30 of the failure to appear to the department for ~~any~~ a violation of
31 this code, or ~~any~~ a violation that can be heard by a juvenile traffic
32 hearing referee pursuant to Section 256 of the Welfare and
33 Institutions Code, or ~~any~~ a violation of any other statute relating
34 to the safe operation of a vehicle, except violations not required
35 to be reported pursuant to paragraphs (1), (2), (3), (6), and (7) of
36 subdivision (b) of Section 1803. If thereafter the case in which the
37 promise was given is adjudicated or the person who has violated
38 the court order appears in court or otherwise satisfies the order of
39 the court, the magistrate or clerk of the court hearing the case shall
40 sign and file with the department a certificate to that effect.

1 (b) If ~~any~~ a person has willfully failed to pay a lawfully imposed
2 fine within the time authorized by the court or to pay a fine
3 pursuant to subdivision (a) of Section 42003, the magistrate or
4 clerk of the court may give notice of the fact to the department for
5 any violation, except violations not required to be reported pursuant
6 to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section
7 1803. If thereafter the fine is fully paid, *an agreement is signed to*
8 *pay the fine in installments, or an agreement is signed to perform*
9 *community service in lieu of the fine pursuant to Section 1209.5*
10 *of the Penal Code*, the magistrate or clerk of the court shall issue
11 and file with the department a certificate showing that the fine has
12 been paid *or satisfied or that an agreement has been signed, and*
13 *request that the license hold be lifted. The court shall not require*
14 *the payment of bail, the fine, or a civil assessment before the person*
15 *requests that the court vacate a civil assessment imposed pursuant*
16 *to Section 1214.1 of the Penal Code.*

17 (c) (1) Notwithstanding subdivisions (a) and (b), the court may
18 notify the department of the total amount of bail, fines,
19 assessments, and fees authorized or required by this code, including
20 Section 40508.5, which are unpaid by any person.

21 (2) Once a court has established the amount of bail, fines,
22 assessments, and fees, and notified the department *of the amount*,
23 the court shall not further enhance or modify that amount.

24 (3) This subdivision applies only to violations of this code that
25 do not require a mandatory court appearance, are not contested by
26 the defendant, and do not require proof of correction certified by
27 the court.

28 (d) With respect to a violation of this code, this section is
29 applicable to any court which has not elected to be subject to the
30 notice requirements of subdivision (b) of Section 40509.5.

31 (e) Any violation subject to Section 40001, which is the
32 responsibility of the owner of the vehicle, shall not be reported
33 under this section.